

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noa Street-Sachs	Team: Squad #8	CCRB Case #: 201908358	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 09/23/2019 5:00 AM	Location of Incident: § 87(2)(b)	Precinct: 50	18 Mo. SOL 3/23/2021	EO SOL 11/7/2021	
Date/Time CV Reported Mon, 09/23/2019 9:31 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/23/2019 9:31 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT1 John Gengo	00182	881817	DBBX OP
2. LT Michael Dunn	00000	920239	DBBX OP

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT2 David Bell	07893	918576	DBBX OP

Officer(s)	Allegation	Investigator Recommendation
A.DT1 John Gengo	Abuse: Detective John Gengo threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.LT Michael Dunn	Abuse: Lieutenant Michael Dunn entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
C.LT Michael Dunn	Abuse: Lieutenant Michael Dunn searched § 87(2)(b) in the Bronx.	§ 87(2)(b)
D.DT1 John Gengo	Abuse: Detective John Gengo threatened to arrest § 87(2)(b) over the phone.	§ 87(2)(b)

Case Summary

On September 23, 2019, § 87(2)(b) filed this complaint with the CCRB over the phone.

On September 23, 2019, at approximately 5 a.m., § 87(2)(b) was inside § 87(2)(b) in the Bronx when Detective John Gengo, Detective David Bell and Lieutenant Michael Dunn, all of the Bronx Detective Division, arrived. After knocking on her door, Det. Gengo stated, § 87(2)(b) “we’re here to arrest you. Open the door” (**Allegation A: Abuse of Authority**, § 87(2)(g)). After approximately 20 minutes of knocking, § 87(2)(b) saw two officers peering in her window, one of whom allegedly opened her window slightly before closing it (**Allegations B and C: Abuse of Authority**, § 87(2)(b)).

At an unknown time on September 23, 2019, § 87(2)(b) received a voicemail from Det. Gengo in which he stated § 87(2)(b) “this is the police department. I’m going to come and pick you up, alright? We’ll take you to the 50th precinct. Or do you want to come in on your own? Okay. Be ready” (**Allegation D: Abuse of Authority**, § 87(2)(b)).

§ 87(2)(b) was not arrested or summonsed as a result of this incident. The officers were not equipped with BWC and the investigation did not obtain any video footage of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Detective John Gengo threatened to arrest § 87(2)(b)

In § 87(2)(b)’s sworn statement, she alleged that an individual arrived outside her apartment, knocked on her door, and stated § 87(2)(b) “we’re here to arrest you. Open the door” (Board Review 01).

Det. Gengo testified that while knocking on § 87(2)(b)’s door, he stated, “It’s the police. Open the door. You gotta open the door.” Besides knocking on the door and announcing himself, Det. Gengo did not take any actions to attempt arresting § 87(2)(b). Det. Gengo did not acknowledge threatening to arrest § 87(2)(b) through the door. Prior to arriving at § 87(2)(b), Det. Gengo conducted a warrant check for § 87(2)(b) § 87(2)(b) did not have any warrants but rather two open probable cause to arrest ICARDs (Board Review 06, Board Review 07) for violating an order of protection. Besides these violations, there was nothing else § 87(2)(b) could have been arrested for on the date of the incident (Board Review 02).

Det. Bell testified that the officers arrived at § 87(2)(b)’s apartment to arrest her for violating an order of protection (Board Review 05). Det. Gengo knocked on § 87(2)(b)’s door as it was his case. When asked if he was making any statements while knocking, Det. Bell stated, “Well he might have said ‘It’s the police.’” Det. Bell denied that he, Det. Gengo, or Lt. Dunn made any statements about arresting § 87(2)(b) (Board Review 03).

Lt. Dunn testified that after arriving outside § 87(2)(b)’s apartment, Det. Gengo knocked on § 87(2)(b)’s apartment door for approximately five minutes after which Lt. Dunn went outside to see if there were lights on or an air conditioner running. Lt. Dunn denied threatening to arrest § 87(2)(b) or having any conversation with her. He did not believe she was present inside the apartment (Board Review 04).

Given that Det. Gengo was the primary officer announcing their presence outside § 87(2)(b)'s door, and that this was his case, the investigation determined he was the subject officer and pled the threat of arrest against him.

On October 25, 2019, Officer Andrew Greges was interviewed at the CCRB for § 87(2)(b)'s concurrent CCRB complaint, § 87(2)(b). At his interview, Officer Greges provided the investigation with the order of protection, both ICARDs, the complaint report, and a photo identifying § 87(2)(b) accompanied by the victim's signature and statement.

The order of protection that Officer Greges provided, which was active until § 87(2)(b), was in protection of § 87(2)(b) and was issued against § 87(2)(b) (Board Review 05).

The ICARDS, one pertaining to the September 5, 2019 incident and one pertaining to the September 11, 2019 incident, were both generated by Officer Greges on § 87(2)(b), and were both for probable cause to arrest § 87(2)(b) (Board Review 06, Board Review 07).

The UF61 complaint report, complaint § 87(2)(b), included the following narrative: § 87(2)(b).
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b) (Board Review 08).

The photo of § 87(2)(b) included the following statement signed by § 87(2)(b) "I am identifying this person as § 87(2)(b) On Sept. 5th and Sept. 11th, she violated an order of protection by banging on my door and harassing me outside as well" (Board Review 09).

New York Penal Law 215.51 states that a person is guilty of criminal contempt in the first degree when (b) in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, or an order of protection issued by a court of competent jurisdiction in this or another state, territorial or tribal jurisdiction, he or she (vi) by physical menace, intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of death, imminent serious physical injury or physical injury (Board Review 10).

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (B) Abuse of Authority: Lieutenant Michael Dunn entered § 87(2)(b) in the Bronx.

Allegation (C) Abuse of Authority: Lieutenant Michael Dunn searched § 87(2)(b) in the Bronx.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

In § 87(2)(b)'s sworn statement, she stated that after the banging on her door ceased, she saw two officers in her window while she was approximately ten feet away from the window. § 87(2)(b) saw one of the officers - described as male, white, young-looking, slim build, 5'5" - open the window a "little bit." This officer had a flashlight he waved around and said, "Oh, I see furniture" before laughing and closing the window. Before the officers arrived, the window was unlocked but completely closed. When asked in the interview how wide the window was opened, § 87(2)(b) said "it wasn't that wide" (Board Review 01).

Lt. Dunn testified that he went outside, where there were two or three windows, so that he could look into the apartment. Lt. Dunn banged on the windows, for approximately one minute per window, and walked further down along the building. There was one additional window with a shade on it and Lt. Dunn banged on this window a few times. He then walked back towards the front of the door and kept his eyes on the corner to see if anyone came out of any of the windows. Lt. Dunn did not remember whether the windows he banged on were completely shut.

Det. Gengo joined Lt. Dunn by the shaded window, looked in, and stated that he could see the light from § 87(2)(b)'s phone. Lt. Dunn said, "Alright, well we have no warrant. So, that's it." Lt. Dunn denied opening the window at any point. Lt. Dunn denied seeing Det. Gengo or Det. Bell open § 87(2)(b)'s window at any point (Board Review 04).

Det. Gengo denied opening § 87(2)(b)'s window or witnessing any other officers opening § 87(2)(b)'s window. When Det. Gengo was trying to speak to § 87(2)(b) through the door, Det. Bell and Lt. Dunn were in the hall behind him. Det. Gengo acknowledged that Lt. Dunn or possibly Det. Bell went outside to look through a window into the apartment while he remained by the door. He denied that any officer opened a window into § 87(2)(b)'s apartment. (Board Review 02).

Det. Bell testified that Det. Gengo lightly tapped once or twice on the window, which was fully closed. Det. Gengo said, "It's the police. You have to come to your door." Det. Bell stood to the back on the sidewalk. Det. Bell denied attempting to open or opening § 87(2)(b)'s window, and denied seeing any other officer do so (Board Review 03).

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (D) Abuse of Authority: Detective John Gengo threatened to arrest § 87(2)(b) over the phone.

It is undisputed that on September 23, 2019, Det. Gengo threatened to arrest § 87(2)(b) over the phone.

At the end of § 87(2)(b)'s verified statement provided on September 24, 2019, § 87(2)(b) played a series of voicemails she received. The second of the voicemails stated § 87(2)(b) this is the police department. I'm going to come and pick you up, alright? We'll take you to the 50th precinct. Or do you want to come in on your own? Okay. Be ready" (Board Review 01).

Det. Gengo testified that he might have left a voicemail for § 87(2)(b) on September 23, 2019. When this voicemail was played for Det. Gengo at the end of his CCRB interview, Det. Gengo identified the voice as his own. As noted above in Allegation A, Det Gengo learned that § 87(2)(b) had two open ICARDs prior arriving at her apartment (Board Review 02). The investigation obtained the order of protection, both ICARDs, the complaint report, and a photo identifying § 87(2)(b) with the victim's signature and statement on it (Board Review 05, Board Review 06, Board Review 07, Board Review 08, and Board Review 09).

New York Penal Law 215.51 states that a person is guilty of criminal contempt in the first degree when (b) in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, or an order of protection issued by a court of competent jurisdiction in this or another state, territorial or tribal jurisdiction, he or she (vi) by physical menace, intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of death, imminent serious physical injury or physical injury (Board Review 10).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to seven CCRB complaints and has been named as a victim in all of them (Board Review 11).
- Det. Gengo has been a member-of-service for 36 years and has been a subject in eight CCRB complaints and nine allegations. One allegation has been pleaded and substantiated against Det. Gengo. § 87(2)(g)
- Lt. Dunn has been a member-of-service for 22 years and has been a subject in ten CCRB complaints and 17 allegations. Three allegations have been pleaded and substantiated against Lt. Dunn. § 87(2)(g)

Mediation, Civil and Criminal Histories

- The investigation determined that this case was ineligible for mediation due to the officers' ongoing attempts to arrest § 87(2)(b)
- As of October 15, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to this complaint (Board Review 14).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____8_____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date